

REMARKS

By this amendment, claims 1-30 are pending, in which no claim is canceled, withdrawn, currently amended, or newly presented. No new matter is introduced.

The Office Action mailed May 30, 2006 rejected claims 1, 4-6, 9-11, 14-16, 19-21, 24-26, 29, and 30 under 35 U.S.C. § 103(a) as obvious based on *Lowrey et al.* (US 6,611,740 B2) in view of *Obuchi* (US 5,819,227), and claims 2, 3, 7, 8, 12, 13, 17, 18, 22, 23, 27, and 28 as obvious under 35 U.S.C. § 103(a) based on *Lowrey et al.* in view of *Obuchi* and further in view of *King et al.* (US App. Pub. 2003/0011511 A1).

Regarding the rejections of record, Applicants respectfully traverse on the merits for the reasons proffered below.

Independent claims 1 and 11 recite, “a **request message specifying** a schedule for transmission of the stored data to the fleet and asset management system and **associated schedule activation information**, wherein the schedule activation information **specifies activation of the schedule based upon a state of the input interface.**” Independent claim 6 recites, “a processor configured to extract, **from the request message**, a schedule for transmission of the stored data to the fleet and asset management system and **associated schedule activation information**, wherein the schedule activation information **specifies activation of the schedule based upon a state of the input interface.**” Independent claims 16, 21, and 26 recite, “wherein **the message specifies** a schedule for transmission of the stored data and **associated schedule activation information that specifies activation of the schedule based upon a state of the input interface.**”

The Office Action, on page 3, now applies *Obuchi* to supposedly teach the above features after acknowledging that *Lowrey et al.* “is silent on the state of the input interface to activate the schedule.” A close study of the rejection and *Obuchi* reveals that the Examiner has interpreted

the claim language in such a piece part manner as to ignore the context of the claim language even to the point of dismissing certain claimed features altogether. The present Office Action so intently focuses on the features of “activation of the schedule based upon a state of the input interface” that it loses perspective on the schedule’s purpose (i.e., “a schedule for transmission of the stored data”) and what mechanism specifies the schedule activation information (i.e., “the request message specifying . . . associated schedule activation information”). Also, the Office Action appears to have disregarded the fact that it is the schedule activation information that “specifies activation of the schedule based upon a state of the input interface.” Furthermore, Applicants submit that the applied reference of *Obuchi* is non-analogous art.

Obuchi teaches a processor that automates the transmission and reception of data between a portable data terminal and a vehicle-installed data terminal **to facilitate the execution of a tour schedule**, (Abstract, col. 1, lines 33-39). The data transmitted between the two data terminals, through the data processor, consists of those portions of the tour schedule related to the respective terminals, (col. 4, line 62 – col. 5, line 25). As such, a tour schedule lists the date, time, location, and transportation information for associated tour activities, (col. 4, lines 13-16; FIG. 6). In this manner, an *Obuchi* tour schedule (specifying when and where individuals are to travel) has no relevance to a schedule for transmission of stored data associated with a tracked object.

Perhaps in recognition of this entirely different notion of a schedule, the Examiner simply declares that *Obuchi* “teaches of a **vehicle tracking** and guidance system,” without any factual basis within *Obuchi* itself. At best, Applicants’ study of the reference reveals a navigation guidance unit 38 that supports the execution of the tour schedule activities by providing searched route information on a display thereby directing an individual to a tour destination, (col. 5, line

61 – col. 6, line 5). Nothing within the *Obuchi* system remotely lends itself to a vehicle-tracking system or a vehicle diagnostic system.

As such, Applicants are perplexed as to how the Examiner characterizes *Obuchi* as analogous prior art. While a reference in a § 102 anticipation may be non-analogous, a base reference for a § 103 reference must be analogous, that is it must relate to the problems and causes of the present invention, *Corning Glass Works v. Sumitomo Electric* (CAFC, 1989) 9 USPQ2nd 1962. As noted, the *Obuchi* system has no relevance to the problem of tracking objects.

Moreover, Applicant respectfully disagrees with the Examiner's contention that the *Obuchi* system's "schedule is activated with the change in state of input interface i.e. the presence of a trigger . . . and also the current state of input interface from position sensor," (Office Action, page 3). *Obuchi* discloses within col. 5: 31-60 (encompassing the cited passage of col. 5: 34-36) the following (Emphasis Added):

FIGS. 9 and 10 are the flow charts **showing the navigation sequences** carried out by the PDA and the vehicle-installed data terminal, respectively.

In the vehicle-installed data terminal, the data processor 36 checks whether or not a start trigger is inputted from the input unit 32, whether or not the data processor 14 of the PDA informs the start in response to a start signal from the input unit 12, or whether or not it is time to start the vehicle-related tour schedule stored in the storage 41 (step S301). **When any of the foregoing conditions is satisfied, a current position of the vehicle is detected on the basis of a detection signal from the current position sensor 42 such as a GPS (step S302).** The vehicle-installed data processor 36 **reads the tour schedule corresponding to the detected current position,** from the data stored in the storage 41 (step S303), and **determines whether or not the read tour schedule relates to the vehicle or the moving bodies other than the vehicle,** i.e. whether the navigation guidance is offered by the vehicle-installed data terminal or by the PDA (S304). The storage 41 generally stores the tour schedule related to the vehicle. The presence of the tour schedule in the storage 41 represents the navigation guidance to be offered by the vehicle-installed data terminal. In other words, the absence of the tour schedule therein represents that the navigation guidance is performed via the PDA. Referring to FIG. 6, the tour schedule indicates that the driver moves by vehicle. **Thus, if the current position is identified to be the driver's house**

when the start trigger is inputted first of all or when the time is recognized as being 8:00, the navigation guidance will be offered by the vehicle-installed data terminal.

The above passage describes a navigation sequence implemented by data processor 36, wherein the presence of a start trigger causes position sensor 42 to detect a current position of a vehicle, not to activate the tour schedule as asserted by the Examiner. In fact, one of ordinary skill could only reasonably interpret the start trigger as activating position sensor 42. Further, upon receiving the current position, **data processor 36 reads the tour schedule** to determine whether navigation guidance will be offered by the portable data terminal or the vehicle data terminal. In effect, the entire *Obuchi* system never activates the tour schedule it merely utilizes information stored within.

Arguendo, even if it were reasonable to construe *Obuchi* as teaching “the schedule is activated with the change in state of input interface” as suggested by the Examiner, Applicant respectfully submits that *Obuchi* fails to teach, “**a request message specifying . . . associated schedule activation information, wherein the schedule activation information specifies activation of the schedule based upon a state of the input interface.**” The Office Action fails to address these positively claimed features. Applicant respectfully reminds the Examiner that 35 U.S.C. § 132 requires the Director to “notify the applicant thereof, stating the reasons for such rejection.” This section is violated if the rejection “is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection.” *Chester v. Miller*, 906 F.2d 1574, 15 USPQ2d 1333 (Fed. Cir. 1990). This policy is captured in the Manual of Patent Examining Procedure (hereinafter MPEP) as well. For example, MPEP § 706 states that “[t]he goal of examination is to clearly articulate any rejection early in the prosecution process so that applicant has the opportunity to provide evidence of patentability and otherwise respond completely at the earliest opportunity.” Furthermore, MPEP § 706.02(j) indicates that “[i]t is

important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given a fair opportunity to reply.”

Instead, the *Obuchi* system implements information center 200 for transmitting messages over a telephone network to the portable and/or vehicle data terminals, (col. 4: 26-46). Accordingly, information center 200 can prepare and transmit a **tour schedule** to the data terminals and/or provide **data necessary to carry out the tour schedule**, e.g., a map of a parking lot, routes to a temple, reservations for a restaurant, a time schedule for a bus, etc. (col. 3: 11-15; col. 4: 21-25). However, neither of the above transmission types are comparable to the claimed “**request message specifying . . . associated schedule activation information**, wherein **schedule activation information specifies** activation of the schedule based upon a state of the input interface.”

Additionally, it would not make sense to include such schedule activation information within the *Obuchi* framework as the system merely reads the tour schedule data so that the navigation unit can search for and present a preferable route, (col. 3: 39-50). Moreover, within the context of the claims, data transmission within the *Obuchi* system occurs upon request and response, therefore a schedule for data transmission, as well as associated schedule activation information, are unnecessary, (col. 4: 24-51).

Applicants respectfully note that it “is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.” See *In re Wesslau*, 147 USPQ 391 (C.C.P.A. 1965). See also M.P.E.P. § 2141.02. Moreover, it is impermissible to use the claimed invention as an instruction manual to piece together isolated disclosures within the prior art. See, e.g., *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988). Instead, the required motivation to combine

the references must “be found in the prior art, and **not** based on applicant’s disclosure.” See M.P.E.P. § 2143. Further, in order to rely on a reference as a basis for rejection of Applicants’ invention, the reference must either be in the field of Applicants’ endeavor or, if not, then be reasonably pertinent to the particular problem with which Applicants were concerned. See *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992).

From the above discussion, it is clear that a *prima facie* case for obviousness has not been established. Applicants, therefore, respectfully solicit the withdrawal of the obviousness rejection to independent claims 1, 6, 11, 16, 21, and 26, and claims 4, 5, 9, 10, 14, 15, 19, 20, 24, 25, 29, 30, depending correspondingly therefrom, and urge the indication that these claims are in condition for allowance.

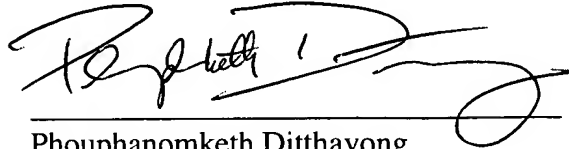
As for the obviousness rejection of claims 2, 3, 7, 8, 12, 13, 17, 18, 22, 23, 27, and 28, the secondary reference of *King et al.* does not cure the deficiencies within either *Lowrey et al.* or *Obuchi*. *King et al.* is relied upon for a supposed teaching of “mobile device originating a location request from the reference network server, receiving the location assistance data and calculating its own location” (Office Action, page 5). Thus, a *prima facie* case of obviousness has not been established. Thus, Applicants request withdrawal of the rejection and solicit an indication of allowance to be entered.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 425-8508 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

DITTHAVONG & MORI, P.C.

8/30/06
Date



Phouphanomketh Ditthavong
Attorney/Agent for Applicant(s)
Reg. No. 44658

10507 Braddock Road
Suite A
Fairfax, VA 22032
Tel. (703) 425-8508
Fax. (703) 425-8518